

NTSB Order No. EA-5069

Issued under delegated authority (49 C.F.R. 800.24)
on the 11th day of December, 2003

Respondent .

Docket SE-16866

On October 22, 2003, the respondent filed a notice of appeal from a decisional order the law judge served in this proceeding on September 4, 2003. Section 821.47 of the Board's Rules of Practice (49 CFR Part 821),¹ requires that an appeal from a decision of a law judge be filed within 10 days after service of the order.²

A party may appeal from a law judge's initial decision or appealable order by filing with the Board, and simultaneously serving upon the other parties, a notice of appeal, within 10 days after the date on which the oral decision was rendered or the written initial decision or appealable order was served.

²The law judge's order granted the Administrator's motion for summary judgment on a complaint seeking the 90-day suspension of respondent's private pilot certificate (No. 002088137)

The time for filing a notice of appeal in this matter expired on September 15th (since the 14th was a Sunday). Respondent's request for additional time to file a notice, which we have treated as his notice of appeal, was not filed until October 22nd, or 37 days late.³ The law judge's decision clearly indicated that any notice of appeal needed to be filed within 10 days after service of the order. The service date appeared on the face of the order.

Without good cause to excuse a failure to file a timely notice of appeal, or a request to file one out of time before it was due, a party's appeal will be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

The respondent's notice of appeal is dismissed.

Ronald S. Battocchi
General Counsel

(..continued)
pursuant to sections 91.13(a), 91.7, and 91.9(a) of the Federal Aviation Regulations, 14 CFR Part 91.

³ Respondent's submission does not establish any basis for finding that a timely notice or extension request could not have been filed.